

AMENDED IN SENATE MAY 2, 2016  
AMENDED IN SENATE FEBRUARY 8, 2016  
AMENDED IN ASSEMBLY JANUARY 4, 2016  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1033**

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**Introduced by Assembly Member Eduardo Garcia**

February 26, 2015

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An act to amend Section 11346.3 of the Government Code, relating to state agency regulations.

LEGISLATIVE COUNSEL’S DIGEST

AB 1033, as amended, Eduardo Garcia. Economic impact assessment: small business definition.

Existing law, the Administrative Procedure Act, governs, among other things, the procedures for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law requires a state agency proposing to adopt, amend, or repeal specific administrative regulations to assess the potential for adverse economic impact on California business enterprises and individuals and to prepare an economic impact assessment, as specified, that addresses, among other things, the creation or elimination of jobs within the state.

This bill ~~would~~ *would, with certain exceptions*, authorize a state agency, when preparing the economic impact assessment, to use a consolidated definition of small business to determine the number of small businesses within the economy, a specific industry sector, or geographic region, and would define “small business” for that purpose

as a business that is independently owned and operated, not dominant in its field of operation, and has fewer than 100 employees.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11346.3 of the Government Code is  
2 amended to read:

3 11346.3. (a) A state agency proposing to adopt, amend, or  
4 repeal any administrative regulation shall assess the potential for  
5 adverse economic impact on California business enterprises and  
6 individuals, avoiding the imposition of unnecessary or unreasonable  
7 regulations or reporting, recordkeeping, or compliance  
8 requirements. For purposes of this subdivision, assessing the  
9 potential for adverse economic impact shall require agencies, when  
10 proposing to adopt, amend, or repeal a regulation, to adhere to the  
11 following requirements, to the extent that these requirements do  
12 not conflict with other state or federal laws:

13 (1) The proposed adoption, amendment, or repeal of a regulation  
14 shall be based on adequate information concerning the need for,  
15 and consequences of, proposed governmental action.

16 (2) The state agency, prior to submitting a proposal to adopt,  
17 amend, or repeal a regulation to the office, shall consider the  
18 proposal's impact on business, with consideration of industries  
19 affected including the ability of California businesses to compete  
20 with businesses in other states. For purposes of evaluating the  
21 impact on the ability of California businesses to compete with  
22 businesses in other states, an agency shall consider, but not be  
23 limited to, information supplied by interested parties.

24 (3) An economic impact assessment prepared pursuant to this  
25 subdivision for a proposed regulation that is not a major regulation  
26 or that is a major regulation proposed prior to November 1, 2013,  
27 shall be prepared in accordance with subdivision (b), and shall be  
28 included in the initial statement of reasons as required by Section  
29 11346.2. An economic assessment prepared pursuant to this  
30 subdivision for a major regulation proposed on or after November  
31 1, 2013, shall be prepared in accordance with subdivision (c), and  
32 shall be included in the initial statement of reasons as required by  
33 Section 11346.2.

1 (b) (1) A state agency proposing to adopt, amend, or repeal a  
2 regulation that is not a major regulation or that is a major regulation  
3 proposed prior to November 1, 2013, shall prepare an economic  
4 impact assessment that assesses whether and to what extent it will  
5 affect the following:

6 (A) The creation or elimination of jobs within the state.

7 (B) The creation of new businesses or the elimination of existing  
8 businesses within the state.

9 (C) The expansion of businesses currently doing business within  
10 the state.

11 (D) The benefits of the regulation to the health and welfare of  
12 California residents, worker safety, and the state's environment.

13 (2) This subdivision does not apply to the University of  
14 California, the Hastings College of the Law, or the Fair Political  
15 Practices Commission.

16 (3) Information required from a state agency for the purpose of  
17 completing the assessment may come from existing state  
18 publications.

19 (4) (A) For purposes of conducting the economic impact  
20 assessment pursuant to this subdivision, a state agency may use  
21 the consolidated definition of small business in subparagraph (B)  
22 in order to determine the number of small businesses within the  
23 economy, a specific industry sector, or geographic region. The  
24 state agency shall clearly identify the use of the consolidated small  
25 business definition in its rulemaking package.

26 (B) For the exclusive purpose of undertaking the economic  
27 impact assessment, a "small business" means a business that is all  
28 of the following:

29 (i) Independently owned and operated.

30 (ii) Not dominant in its field of operation.

31 (iii) Has fewer than 100 employees.

32 (C) *Subparagraph (A) shall not apply to a regulation adopted*  
33 *by the Department of Insurance that applies to an insurance*  
34 *company.*

35 (c) (1) Each state agency proposing to adopt, amend, or repeal  
36 a major regulation on or after November 1, 2013, shall prepare a  
37 standardized regulatory impact analysis in the manner prescribed  
38 by the Department of Finance pursuant to Section 11346.36. The  
39 standardized regulatory impact analysis shall address all of the  
40 following:

1 (A) The creation or elimination of jobs within the state.

2 (B) The creation of new businesses or the elimination of existing  
3 businesses within the state.

4 (C) The competitive advantages or disadvantages for businesses  
5 currently doing business within the state.

6 (D) The increase or decrease of investment in the state.

7 (E) The incentives for innovation in products, materials, or  
8 processes.

9 (F) The benefits of the regulations, including, but not limited  
10 to, benefits to the health, safety, and welfare of California residents,  
11 worker safety, and the state's environment and quality of life,  
12 among any other benefits identified by the agency.

13 (2) This subdivision shall not apply to the University of  
14 California, the Hastings College of the Law, or the Fair Political  
15 Practices Commission.

16 (3) Information required from state agencies for the purpose of  
17 completing the analysis may be derived from existing state, federal,  
18 or academic publications.

19 (d) Any administrative regulation adopted on or after January  
20 1, 1993, that requires a report shall not apply to businesses, unless  
21 the state agency adopting the regulation makes a finding that it is  
22 necessary for the health, safety, or welfare of the people of the  
23 state that the regulation apply to businesses.

24 (e) Analyses conducted pursuant to this section are intended to  
25 provide agencies and the public with tools to determine whether  
26 the regulatory proposal is an efficient and effective means of  
27 implementing the policy decisions enacted in statute or by other  
28 provisions of law in the least burdensome manner. Regulatory  
29 impact analyses shall inform the agencies and the public of the  
30 economic consequences of regulatory choices, not reassess  
31 statutory policy. The baseline for the regulatory analysis shall be  
32 the most cost-effective set of regulatory measures that are equally  
33 effective in achieving the purpose of the regulation in a manner  
34 that ensures full compliance with the authorizing statute or other  
35 law being implemented or made specific by the proposed  
36 regulation.

37 (f) Each state agency proposing to adopt, amend, or repeal a  
38 major regulation on or after November 1, 2013, and that has  
39 prepared a standardized regulatory impact analysis pursuant to  
40 subdivision (c), shall submit that analysis to the Department of

1 Finance upon completion. The department shall comment, within  
2 30 days of receiving that analysis, on the extent to which the  
3 analysis adheres to the regulations adopted pursuant to Section  
4 11346.36. Upon receiving the comments from the department, the  
5 agency may update its analysis to reflect any comments received  
6 from the department and shall summarize the comments and the  
7 response of the agency along with a statement of the results of the  
8 updated analysis for the statement required by paragraph (10) of  
9 subdivision (a) of Section 11346.5.

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